




FW: Arkwood--Issues with C.C. ("Bud") Grisham and Visitors 5/2 Site Visit 

Stephen Tzhone to: Tina Kirst

08/22/2012 03:38 PM

From: Stephen Tzhone/R6/USEPA/US

To: Tina Kirst/R6/USEPA/US@EPA

"Mescher, Jean"

Stephen,

05/07/2012 06:23:12 PM

From: "Mescher, Jean" <Jean.Mescher@McKesson.com>

To: Stephen Tzhone/R6/USEPA/US@EPA

Date: 05/07/2012 06:23 PM

Subject: FW: Arkwood--Issues with C.C. ("Bud") Grisham and Visitors 5/2 Site Visit

Stephen,

In addition, here is the information about the site visitors last week for reference.

Jean

From: John Edgcomb [mailto:jedgcomb@edgcomb-law.com]

Sent: Friday, May 04, 2012 4:56 PM

To: Gloria-Small Moran

Cc: Carlos Sanchez; Shawn Ghose; Mescher, Jean; Ungvarsky, Carole; das.smcrrh@mac.com

Subject: Arkwood--Issues with C.C. ("Bud") Grisham and Visitors 5/2 Site Visit

Gloria:

McKesson is having serious issues with Mr. C.C. ("Bud") Grisham, Sr. and the visitors he is bringing to the Arkwood Site ("Site"). Please see the attached report McKesson received from its on-site representative about the conduct of Mr. Grisham and his visitors during their Site visit on Wednesday, May 2.

In short:

- Mr. Grisham and his visitors (except Hallie Grisham) refused to enter any information into McKesson's Visitor's Log and the unknown visitors refused to otherwise identify themselves;
- Mr. Grisham had apparently directed some of his visitors to intentionally evade McKesson's representative who was there to escort them around the property, and they drove across the Site unescorted, directly contrary to McKesson's request;
- Mr. Grisham and his visitors, unescorted, drove a vehicle across a portion of the Site cap.

Based on discussions he has had with McKesson representatives, it appears that Mr. Grisham believes, at least in part based on his prior communications with USEPA Region 6, that he has no obligation to comply with McKesson's requests regarding on-Site visits and that he and his guests can engage in unlogged, unescorted inspections of the Site as demonstrated by their behavior on Wednesday. McKesson, as Project Coordinator, is now in a quandary. It is granting access to the Site to its owner's legally-designated representative as required by Region 6, while also trying to meet its obligations to maintain Site security and protect human health and the environment. However, the Site owner,

leveraging the access required by Region 6, refuses to comply with McKesson's reasonable access requirements. In our telephone conversation on Tuesday, you indicated that at sites where EPA is the Project Coordinator and is itself cleaning up the site, EPA requires site visitors (including owners I assume) to: 1) sign in on a visitor's log; 2) hear a safety briefing; and 3) be escorted around the property, presumably to insure no damage is caused to EPA's remediation equipment or remedial features, such as a site cap. We request that USEPA assist McKesson in enforcing similar requirements on the Site owner's representative and his visitors at the Arkwood Site.

We also take this opportunity to bring to your attention the fact that when USEPA and McKesson's predecessor MMI reached agreement on performance of an RI/FS for this Site in 1987, the Site ownership group, including Mr. Bud Grisham, refused to provide Site access, requiring Region 6 to refer the matter to the Department of Justice, which filed suit against the Site owners in April, 1987. It took more than a year before the Site owners finally entered into a July, 1988 Consent Order with EPA (attached) requiring them to provide access and, per Section V.E, to agree that:

"[T]he defendants and their successors and assigns shall not use any portion of the Site in any manner that would adversely affect the implementation of the RI/FS or subsequent response action at the Site by the EPA, its authorized representative, or its contractors or consultants."

McKesson submits that the actions of Bud Grisham and his visitors on May 2, as reflected in the attached email, are adversely affecting the response action implemented by EPA's "authorized representative" at the Site, McKesson, including the permanent cap and institutional controls (i.e. site fencing and access control).

Can you please let me know your soonest availability for a conference call with me and Jean Mescher to discuss how EPA can assist McKesson in requiring Mr. Grisham and his visitors to comply with its reasonable Site access requests, consistent with those required of visitors at EPA's own sites, and stop taking actions adversely affecting the Site response action? We look forward to hearing from you.

Thank you, John

John D. Edgcomb

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2012-0503 email re May 2 B. Grisham Arkwood site visit (00032982).MSG



1988-0711 United States and Ormond Group Consent Decree re Arkwood Site access, etc. (00032820).PDF